S.B. Civil Misc. Appeal No.917/2006

Smt. Leela Devi and others.
vs.
Amar Chand.

Date : 3.8.2006

HON'BLE MR. PRAKASH TATIA, J.

Dr. Sachin Acharya, for the appellants.
Mr. Arun Bhansali, for the respondent.

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Heard learned counsel for the parties.

The grievance of the appellants is that the trial court dismissed the injunction application filed by the appellants wherein the appellants prayed that the respondent be restrained from taking possession in the proceedings for eviction of tenant instituted by the respondent and which is pending before Rent Tribunal, Bhilwara.

It is submitted by learned counsel for the appellants that the appellants have reasonable apprehension that after getting the possession of the shop in dispute, the respondent may transfer, sale or mortgage the property and thereby he will create third party interest. It is also submitted that in a suit for partition, the parties are required to maintain status quo.

I have considered the submissions of learned counsel for the appellants and perused the reasons given by the court below.

Admittedly, the property in question – shop is not in possession of the plaintiffs. It is in possession of a tenant against whom a suit has been filed by the respondent which appears to have been filed in the year 2003 or before that. Presently, the petition for eviction of tenant is pending before Rent Tribunal, Bhilwara.

So far as the apprehension of the appellants that the respondent will sell the property or create any third party interest is concerned, for that sufficient safeguards are provided in the Transfer of Property Act itself and even if the property is sold out during pendency of the suit or right is created in the property, the plaintiffs can get relief against those persons who entered into any contract dealing with the property. In view of the above, the apprehension raised by the appellant has no legal basis.

Consequently, this appeal having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya